

Serial No.: 10/020,593
Examiner: Derrick W. Ferris

REMARKS/ARGUMENTS

Claims 1-23 remain in this application.

Claims 1, 4-5, 8, 12, 13, 16, and 21 have been rejected under 35 USC 102(e) as being anticipated by U.S. Patent Application 2003/0103449 A1 to Barsheshet et al. ("Barsheshet").

Since the filing date of the Barsheshet non-provisional application is after that of the present application, Applicant requests to be provided a copy of the Barsheshet provisional application to which priority is claimed.

Barsheshet states in paragraph [0037], "These constraints may include, for example, load balancing..." In paragraph [0056], Barsheshet teaches that the "designated router in each ring network 32 advertises the link constraint information for all the links in its network that serve as gateways to other networks..."

Barsheshet does not teach how to use any parameters to accomplish load balancing.

The comments below are addressed to language of independent method claim 1, but apply equally to independent apparatus claims 8 and 16 which have substantially similar elements.

Barsheshet does not teach "changing Bandwidth Broker ("BB") parameters at the node for the first class of service".

The reference does not teach "to cause new flows to be diverted from a more heavily loaded one of the rings to a less heavily loaded one of the rings."

Similarly, Barsheshet does not teach "changing Quality of Service ("QoS") parameters at the node for the first class of service". Quality of Service parameters are not even mentioned by Barsheshet. Applicant respectfully disagrees with the Examiner that "traffic engineering metrics" teach Quality of Service parameters. Since QoS parameters are not taught by the reference, there can be no teaching of changing QoS parameters.

Moreover, Barsheshet does not teach "to improve traffic performance on the more heavily loaded one of the rings, while increasing bandwidth utilization on the less heavily loaded one of the rings". This is not addressed or suggested in the reference.

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Barsheshet does not hint at the combination of Applicant's claim elements, including a use of both BB parameters and QoS parameters to provide the inventive load balancing described in the present application.

Since the claim elements described above, in Applicant's independent claims 1, 8, and 16, are not taught by Barsheshet, it is submitted that claims 1, 4-5, 8, 12, 13, 16, and 21 are not anticipated by Barsheshet.

In addition, with respect to claims 4, 12 and 16, it is submitted that there is no teaching of a QoS/BB monitor in Barsheshet.

Claims 2-3, 9-11, 17, and 18 have been rejected under 35 USC 103(a) as unpatentable over Barsheshet in view of U.S. Patent Application 2003/0048754 to Bruckman.

It is submitted that multiple elements of Applicant's independent claims are not shown or suggested by Barsheshet, as described above in connection with claims 1, 8, and 16. Nor are these elements taught or rendered obvious by Bruckman. For this reason, it is submitted that claims 2-3, 9-11, 17, and 18 are not unpatentable under 35 USC 103 in view of these references.

In addition, in respect to claims 3, 11, and 18, it is submitted that neither Bruckman nor the combination of references teaches "comparing a number of dropped packets on the first and second rings with a preselected maximum value".

Claims 7, 15, and 23 have been rejected under 35 USC 103(a) as unpatentable over Barsheshet in view of Bruckman in view of "Architectural Issues for Robust Access" to Medard, et al. ("Medard").

It is submitted that multiple elements of Applicant's independent claims are not shown or suggested by Barsheshet, as described above in connection with claims 1, 8, and 16. Nor are these elements taught or rendered obvious by Bruckman and/or Medard. For this reason, it is submitted that claims 7, 15, and 23 are not unpatentable under 35 USC 103 in view of these references.

Claims 19-20 have been rejected under 35 USC 103(a) as unpatentable over Barsheshet in view of Bruckman in view of "Data and Computer Communications" to Stallings.

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It is submitted that multiple elements of Applicant's independent claims are not shown or suggested by Barsheshet, as described above in connection with claims 1, 8, and 16. Nor are these elements taught or rendered obvious by Bruckman and/or Stallings. For this reason, it is submitted that claims 19-20 are not unpatentable under 35 USC 103 in view of these references.

Claims 6, 14 and 22 have been indicated to include patentable subject matter.

It is believed that the foregoing amendment places the Application in condition for allowance; therefore, Applicant respectfully requests withdrawal of the Examiner's rejections and full allowance of same. Should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the undersigned to expeditiously resolve any outstanding issues.

Respectfully submitted,

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